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FM USEU BRUSSELS
TO RUEHC/SECSTATE WASHDC PRIORITY
INFO RUEHZG/NATO EU COLLECTIVE PRIORITY
RUEHNR/AMEMBASSY NAIROBI PRIORITY
RUEHPL/AMEMBASSY PORT LOUIS PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RHMFISS/CDR USCENTCOM MACDILL AFB FL PRIORITY
RUEHSW/USDAO BERN SZ PRIORITY
RUENAAA/SECNAV WASHINGTON DC PRIORITY
RUEHBS/USDAO BRUSSELS BE PRIORITY
RHMFIUU/HQ USAFRICOM STUTTGART GE PRIORITY
RUEHCP/USDAO COPENHAGEN DA PRIORITY
RHMFISS/HQ USEUCOM VAIHINGEN GE PRIORITY
RUEHLI/USDAO LISBON PO PRIORITY
RUEKJCS/CJCS WASHINGTON DC PRIORITY
RUEHLO/USDAO LONDON UK PRIORITY
RUEKJCS/JOINT STAFF WASHDC PRIORITY
RUEHMD/USDAO MADRID SP PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RUEHNR/USDAO NAIROBI PRIORITY
RHMFIUU/CNO WASHDC PRIORITY
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RUEAIIA/CIA WASHDC PRIORITY
RUEHNY/USDAO OSLO NO PRIORITY
RUEHNO/USDELMC BRUSSELS BE PRIORITY
RUEHOT/USDAO OTTAWA CA PRIORITY
RHEFDIA/DIA WASHINGTON DC PRIORITY
RUEHFR/USDAO PARIS FR PRIORITY
RUEHNO/USMISSION USNATO PRIORITY
RUEHPG/USDAO PRAGUE EZ PRIORITY
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RUEHRO/USDAO ROME IT PRIORITY
RUEHSM/USDAO STOCKHOLM SW PRIORITY
RUEHTC/USDAO THE HAGUE NL PRIORITY
RUEHTH/USDAO ATHENS GR PRIORITY
RUEHRL/USDAO BERLIN GE PRIORITY

UNCLAS SECTION 01 OF 02 BRUSSELS 000819

SENSITIVE
SIPDIS

PASS TO NAVCENT POLAD

E.O. 12958: N/A

TAGS: [MOPS](#) [MARR](#) [PREL](#) [EWWT](#) [XW](#) [XF](#) [EUN](#)

SUBJECT: COUNCIL SECRETARIAT DISCUSSES PIRACY PROSECUTION
OPTIONS

REF: A. SECSTATE 58579

[1](#)B. USEU BRUSSELS 702

[1](#)C. USEU BRUSSELS 692

[1](#)1. (SBU) Summary: On June 12, Poloffs delivered REF A points and nonpaper on U.S. opposition to an international piracy court to Didier Lenoir, Head of the EU Council Secretariat's Operations and Exercises Unit. Lenoir confirmed that EU Member States are divided on the question of an international piracy court. The Council Secretariat, however, is concerned about the sustainability of the current legal arrangement with Kenya and probable future arrangement with the Seychelles. Lenoir proposed two alternatives to an ICC-style international court: a locally-run, internationally-supported regional piracy tribunal, or an international community commitment to substantial, long-term financial and structural support for states prosecuting pirates. End Summary.

[1](#)2. (SBU) On June 12, Poloffs delivered REF A points and nonpaper on U.S. opposition to an international piracy court to Didier Lenoir, Head of the EU Council Secretariat's Operations and Exercises Unit. European Commission contacts

tell us the Commission does not have oversight of this issue, but USEU will raise the issue with Commission officials as appropriate.

¶3. (SBU) Lenoir confirmed that EU Member States are divided on the question of an international piracy court. Lenoir said EU Ambassadors had discussed the issue once, but the meeting was limited to announcements of known positions rather than a substantive exchange.

¶4. (SBU) The Council Secretariat, on the other hand, is concerned about the sustainability of current legal arrangements. The Secretariat wants to ensure continuity between military operations and legal arrangements, because the EU cannot afford to have ships taken out of operations for extended periods while holding captured pirates. For that reason, the EU finalized an agreement with Kenya in March and is coming close to signing a similar agreement with the Seychelles. (Note: Lenoir acknowledged that the recent decision by the EU to extend the EU operation's area of responsibility to the Seychelles, reported REF B, was part of the deal in getting the Seychelles to sign an agreement. End note.) In addition to these measures, Lenoir supported the idea of victim states prosecuting pirates, but noted that a lack of political will makes victim state prosecution impossible in many cases. He cited examples with Greece and Germany, both of which recently demurred when asked to accept pirate suspects. Noting that some NGOs are already

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criticizing the EU for failing to ensure captured pirates are treated well by Kenyan law enforcement authorities, Lenoir is concerned that pirates prosecuted in certain victim states would be subject to human rights violations.

¶5. (SBU) In the short term, Lenoir said that the EU can rely on Kenya and the Seychelles for piracy prosecutions. However, he assessed that the Kenyan court systems will be beyond capacity in three to four months, with the Seychelles soon to follow. The international community must find a long-term solution, he contended. Lenoir agreed that an ICC-like international tribunal would not be cost effective, but suggested two alternatives. The first is to establish a regional tribunal dedicated to piracy prosecutions. The tribunal would be locally-run but supported by the international community. Alternatively, Lenoir said the international community could commit to a substantial, long-term program of support to states prosecuting pirates. In this case, he said the EU would have to go beyond its current 1.75 million euro commitment to Kenya (REF C). International aid would have to include structural support, including building prisons and other facilities. Lenoir reiterated that these were not EU-wide proposals, but noted that those overseeing the EU naval operations doubt the sustainability of the current arrangement.

MURRAY

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